

OCT 07 2019



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
**REGION IX**  
**75 Hawthorne Street**  
**San Francisco, CA 94105-3901**

CERTIFIED MAIL NO. 7019 0700 0001 7652 9794  
RETURN RECEIPT REQUESTED

Michael Dillehay, CEO  
No Limit Enterprises Inc.  
d/b/a No Limit Fabrication and No Limit Diesel  
5317 Bonsai Avenue  
Moorpark, California, 93021

Re: Notice of Violation of the Clean Air Act

Mr. Dillehay:

The United States Environmental Protection Agency ("EPA") has investigated and continues to investigate No Limit Enterprises Inc. d/b/a No Limit Fabrication and No Limit Diesel ("No Limit") for compliance with the Clean Air Act ("CAA" or the "Act"), 42 U.S.C. §§ 7401–7671q, and its implementing regulations. As summarized in this Notice of Violation, the EPA has determined that No Limit manufactured and/or sold parts or components for motor vehicles and motor vehicle engines that bypass, defeat, or render inoperative elements of design that were installed by the original equipment manufacturer in order to comply with CAA emission standards, and knew or should have known that these parts or components were offered for sale for such use or put to such use. Therefore, No Limit has violated section 203(a)(3)(B) of the Act, 42 U.S.C. § 7522(a)(3)(B).

Law Governing Alleged Violations

This Notice of Violation arises under Part A of Title II of the Act, 42 U.S.C. §§ 7521–7554, and the regulations promulgated thereunder. These laws were enacted to reduce air pollution from mobile sources of air pollution. In creating the Act, Congress found, in part, that "the increasing use of motor vehicles . . . has resulted in mounting dangers to the public health and welfare."<sup>1</sup> Congress' purpose in creating the Act, in part, was "to protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity of its population," and "to initiate and accelerate a national research and development program to achieve the prevention and control of air pollution."<sup>2</sup>

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<sup>1</sup> CAA § 101(a)(2), 42 U.S.C. § 7401(a)(2).

<sup>2</sup> CAA § 101(b)(1)–(2), 42 U.S.C. § 7401(b)(1)–(2).

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The EPA's allegations here concern parts or components for motor vehicles and engines subject to the CAA emission standards.<sup>3</sup> The Act requires the EPA to prescribe and revise, by regulation, standards applicable to the emission of any air pollutant from new motor vehicles or engines that cause or contribute to air pollution, which may reasonably be anticipated to endanger public health or welfare.<sup>4</sup> As required by the Act, the emission standards "reflect the greatest degree of emission reduction achievable through the application of [available] technology."<sup>5</sup> Motor vehicles and engines are subject to specific emission standards for each pollutant, based on a vehicle's or engine's class and model year.<sup>6</sup>

In addition, the Act makes it a violation "for any person to manufacture or sell, or offer to sell, or install, any part or component intended for use with, or as part of, any motor vehicle or motor vehicle engine, where a principal effect of the part or component is to bypass, defeat, or render inoperative any device or element of design installed on or in a motor vehicle or motor vehicle engine in compliance with regulations under this subchapter, and where the person knows or should know that such part or component is being offered for sale or installed for such use or put to such use."<sup>7</sup> It is also a violation to cause any of the foregoing acts.<sup>8</sup>

### EPA Certification Program

To ensure that every new motor vehicle or engine legally sold, offered for sale, imported, delivered for introduction into commerce, or introduced into commerce in the United States (collectively, "introduced into commerce") satisfies applicable emission standards, the EPA implements a certification program. Under this program, the EPA issues certificates of conformity ("COCs"), thereby qualifying motor vehicles and engines for introduction into commerce.<sup>9</sup> To obtain a COC, an original equipment manufacturer ("OEM") must submit a COC application to the EPA for each engine family and each model year in which it intends to manufacture or import motor vehicles or engines for introduction into commerce.

Vehicle and engine manufacturers employ many devices and elements of design to meet emission standards. *Element of design* means "any control system (i.e., computer software, electronic control system, emission control system, computer logic), and/or control system calibrations, and/or the results of systems interaction, and/or hardware items on a motor vehicle or motor vehicle engine."<sup>10</sup> For example, manufacturers employ retarded fuel injection timing as a primary emission control device for emissions of oxides of nitrogen ("NOx"). Manufacturers also employ certain hardware devices as emission control systems to manage and treat exhaust to reduce levels of regulated pollutants from being created or emitted into the ambient air. Such devices include diesel particulate filters ("DPFs"), exhaust gas recirculation ("EGR"), diesel oxidation catalysts ("DOC"), nitrogen oxide absorbing catalysts ("NAC"), three-way catalysts ("TWC"), and selective catalytic reduction ("SCR"). Modern vehicles and

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<sup>3</sup> See generally 40 C.F.R. Part 86, Subpart A (setting emission standards for these categories).

<sup>4</sup> CAA § 202(a)(1) and (3)(B), 42 U.S.C. § 7521(a)(1) and (3)(B).

<sup>5</sup> CAA § 202(a)(3)(A)(i), 42 U.S.C. § 7521(a)(3)(A)(i).

<sup>6</sup> See, e.g., heavy-duty diesel engine emission standards at 40 C.F.R. §§ 86.004-11, 86.007-11, 86.099-11 and light-duty vehicle emission standards at 40 C.F.R. § 86.1811-04. See also 40 C.F.R. §§ 86.090-8 (1990 and later model year light-duty vehicles); 86.094-9 (1994 and later model year light-duty trucks); 86.001-9 (2001 and later model year light-duty trucks); 86.004-9 (2004 and later model year light-duty trucks); 86.091-10 (1991 and later model year Otto-cycle heavy-duty engines and vehicles); 86.008-10 (2008 and later model year Otto-cycle heavy-duty engines and vehicles).

<sup>7</sup> CAA § 203(a)(3)(B), 42 U.S.C. § 7522(a)(3)(B).

<sup>8</sup> CAA § 203(a), 42 U.S.C. § 7522(a).

<sup>9</sup> 40 C.F.R. § 86.007-30.

<sup>10</sup> 40 C.F.R. § 86.094-2.



engines are equipped with electronic control modules (“ECMs”). ECMs continuously monitor engine and other operating parameters and control the emission control devices, such as the fueling strategy.

Manufacturers further employ onboard diagnostics, or “OBD,” which is comprised of systems that monitor components that can affect the emission performance of a motor vehicle, detect problems with the vehicle’s emission-related systems that could cause the vehicle to fail to comply with the CAA’s emission standards, alert drivers to these problems, and store electronically-generated malfunction information.<sup>11</sup> If a problem is detected, the OBD system illuminates a warning lamp on the vehicle instrument panel to alert the driver. Given these functions, the OBD is part of a motor vehicle’s emission control system.

### Alleged Violations

Based on evidence gathered during an inspection on June 13 and 14, 2017, and No Limit’s September 28, 2018 response to the EPA’s Information Request issued pursuant to section 208(a) of the CAA on October 17, 2017, the EPA has determined that No Limit manufactured, offered for sale, and/or sold from June 8, 2016, to December 31st, 2017, products that have a principal effect of altering or bypassing emission control systems or elements of design on motor vehicles or engines, primarily light-duty diesel trucks and engines, manufactured by entities such as Fiat Chrysler Automobiles (“FCA”), General Motors Co. (“GM”), and Ford Motor Co. (“Ford”). No Limit sold three main categories of “defeat device” products: (1) aftermarket ECM programmers (including hardware commonly referred to as “tuners” and software commonly referred to as “tunes”); (2) EGR delete hardware; and (3) exhaust emission control delete hardware (sometimes referred to as “straight pipes”).

The EPA’s findings regarding No Limit’s manufacture and/or sale of defeat devices between June 8, 2016, to December 31st, 2017, are identified in the table below:

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<sup>11</sup> See CAA § 202(m), 42 U.S.C. § 7521(m), requiring EPA to promulgate regulations requiring OBD systems for motor vehicles after 2007. See also 40 C.F.R. §§ 86.005-17, 86.007-17, 86.1806-05, and 86.1806-17.

<b>Defeat Device Product</b>	<b>Effect on Motor Vehicle and Engine Emission Control Systems and Elements of Design</b>	<b>Approximate Quantity</b>
1. Tuner related products	Override OBD codes to facilitate removal of DOC, NAC, TWC, DPF, EGR, and/or SCR systems; and/or alter ECM fuel or ignition timing maps.	8,114
2. EGR Delete Hardware	EGR system removal and/or bypass.	3,991
3. Exhaust Emission Control Delete Hardware (i.e., straight pipes)	Remove and bypass DOC, DPF, NAC and/or SCR systems.	1,160
4. Throttle Valve Delete Hardware	Removes the throttle valve assembly from the air intake resulting in disablement of the EGR system.	3
<b>TOTAL</b>		<b>13,268</b>

A principal effect of these products is to bypass, defeat, or render inoperative elements of the design that control emissions of regulated air pollutants.

No Limit manufactured and sold EGR delete hardware designed to replace the EGR valve and cooler systems found on most model year 2003 and newer diesel engines. This hardware typically includes EGR block off plates and/or intake or exhaust manifolds that do not include an EGR port. No Limit also sold exhaust delete hardware. The exhaust delete hardware are exhaust replacement pipes that do not incorporate exhaust aftertreatment emission control devices and are designed to replace exhaust systems containing DOCs, DPFs, NACs, and SCRs. The EGR delete hardware and exhaust replacement pipes are designed to remove or bypass emission control hardware, which are elements of design that manufacturers employ to meet emission standards.

In addition, No Limit sold aftermarket ECM programmers that rendered inoperative the OEM-certified ECM programming and replaced it with modified programming that altered fuel injection maps and other elements of design that can lead to significant emission increases compared to the OEM-certified programming. The aftermarket ECM programmers sold by No Limit also defeat the OEM-certified ECM programming by overriding the OBD notifications required by regulation under the CAA, and enable the removal of emission control systems or elements of design without illuminating a malfunction indicator lamp ("MIL"), prompting any diagnostic trouble codes ("DTCs"), or causing an engine power reduction.

Based upon the functions of the products, No Limit's advertisements regarding the products, and No Limit's responses to the EPA's Information Request, No Limit knew or should have known that these products were offered for sale, or sold to bypass, defeat, or render inoperative devices or elements of design that control emissions of regulated air pollutants.

No Limit manufactured and/or sold products that, as advertised by No Limit, were designed to bypass or render inoperative EGR systems. For example, No Limit's advertising for its 6.7 EGR Delete [11-14] 67 PK states:

*This 100% American made kit uses only Billett and Stainless plates to block the 6.7 Power Stroke EGR System. Using a high temp hose to connect the high and low cooling systems together yielding 3-5 degrees in coolant temp drops from stock...\*REQUIRES CUSTOM TUNING\*<sup>12</sup>*

No Limit sold exhaust pipes that are designed to bypass or remove the OEM exhaust systems containing, for example, DOC, DPF, NAC, and/or SCR systems (i.e., "straight pipes"). Some of these components were accompanied by a statement indicating that a tuner was required to use the exhaust pipes. For example, No Limit's advertising on its website stated:

*FLO-PRO 5" DOWNPIPE BACK EXHAUST 11-17 6.7L FORD 652/653*

*This kit is designed to allow you to remove the CAT, DPF, and the DEF system with the use of a tuner. For the guys that want to remove the emissions, and have the ultimate in performance, this is the kit for you.<sup>13</sup>*

No Limit also sold aftermarket ECM tuning products that enable removal of emission control hardware. For example, No Limit's website stated the following regarding the Spartan 6.7L Phalanx Indash Tuner:

*DOC/SCR/DPF and DEF (Urea) Delete tuning included. EGR Delete also supported with optional hardware.<sup>14</sup>*

In addition to advertising delete capabilities, No Limit also advertises that tuners it sells offer significant horsepower gains. For example, No Limit's website stated that the H&S Mini Maxx Race Tuner would:

*Precisely tune engine with HP increases of 0-250HP (dependent on application, see below chart)  
Remove/Adjust top speed limiter  
Read/Clear Diagnostic Trouble Codes.<sup>15</sup>*

The horsepower gains are typically achieved, in part, through alteration of ECM fuel or ignition timing maps, which can lead to significant emission increases compared to the OEM certified programming.

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<sup>12</sup> Webpage: [http://nolimitfabrication.com/index.php?route=product/product&product\\_id=595](http://nolimitfabrication.com/index.php?route=product/product&product_id=595) (visited December 21, 2018).

<sup>13</sup> Webpage: [http://nolimitfabrication.com/index.php?route=product/product&path=138\\_74&product\\_id=262](http://nolimitfabrication.com/index.php?route=product/product&path=138_74&product_id=262) (visited December 21, 2018).

<sup>14</sup> Webpage: [http://nolimitfabrication.com/index.php?route=product/product&product\\_id=236](http://nolimitfabrication.com/index.php?route=product/product&product_id=236) (visited December 21, 2018).

<sup>15</sup> Webpage: [http://nolimitfabrication.com/index.php?route=product&path=67\\_71&product\\_id=192](http://nolimitfabrication.com/index.php?route=product&path=67_71&product_id=192) (visited December 21, 2018).

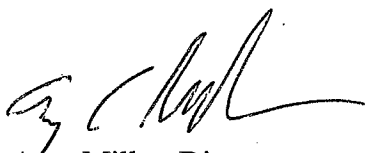
Furthermore, No Limit knew or should have known that these products were manufactured for, offered for sale, or sold for use on “motor vehicles” or “motor vehicle engines.” Many products manufactured or sold by No Limit were designed and marketed for use on specific makes and models of FCA, GM, and Ford motor vehicles or engines.<sup>16</sup> FCA, GM, and Ford sought and obtained COCs from the EPA for these motor vehicles and engines for highway use. This certification unequivocally demonstrates that these vehicles and engines are “motor vehicles” and “motor vehicle engines” under the Act.

### Enforcement

The EPA may bring an enforcement action for these violations under its administrative authority or by referring this matter to the United States Department of Justice with a recommendation that a civil complaint be filed in federal district court.<sup>17</sup> Persons violating section 203(a)(3)(B) of the Act, 42 U.S.C. §§ 7522(a)(3)(B), are subject to an injunction under section 204 of the Act, 42 U.S.C. § 7523, and a civil penalty of up to \$4,735 for each violation.<sup>18</sup>

The EPA is available to discuss this matter with you in further detail upon your request. Please contact Melanie Shepherdson, the EPA attorney assigned to this matter, within 14 days of receipt of this Notice of Violation. Ms. Shepherdson can be reached at 415-972-3923 or [Shepherdson.Melanie@epa.gov](mailto:Shepherdson.Melanie@epa.gov).

Sincerely,

A handwritten signature in black ink, appearing to read 'Amy Miller', is written over a horizontal line.

Amy Miller, Director  
Enforcement and Compliance Assurance Division

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<sup>16</sup> Cummins engines were used in Dodge brand motor vehicles manufactured by FCA.

<sup>17</sup> CAA §§ 204, 205, 42 U.S.C. §§ 7523, 7524.

<sup>18</sup> CAA § 205(a), 42 U.S.C. § 7524(a); 40 C.F.R. § 19.4; Civil Monetary Penalty Inflation Adjustment Rule, 84 Fed. Reg. 2056 (Feb. 6, 2019).